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December 18, 2002

REDACTED CONFIDENTIAL FILING – REDACTED FOR PUBLIC INSPECTION

Via Electronic Comment Filing System
Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte Presentation*
CC Docket Nos. 01-338, 96-98, 98-147, RM-10593

Dear Ms. Dortch:

AT&T Wireless Services, Inc., ("AWS") through its counsel, hereby submits this notice of the following *ex parte* meetings: December 16, 2002 with Christopher Libertelli and Bryan Tramont, Legal Advisors to Chairman Michael Powell; December 17, 2002 with Matthew Brill, Legal Advisor to Commissioner Abernathy; Daniel Gonzalez, Legal Advisor to Commissioner Martin; and with William Maher, Richard Lerner, Thomas Navin, Jeremy Miller and Julie Veach of the Wireline Competition Bureau. Attending the meetings were Douglas Brandon, Vice President-External Affairs, AT&T Wireless Services, and the undersigned.

The purpose of the meetings was to discuss CMRS carrier access to unbundled network elements consistent with the comments of AWS filed in the above-referenced dockets and the attached presentation which was distributed in the meetings.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, this letter is being provided for inclusion in the public record of the above-referenced proceeding. One copy of the attached material containing confidential business information will be filed with the Secretary, via hand delivery, and one copy of the redacted version of the attachment will be filed on the Electronic Comment Filing System.

Very truly yours,

/s/ Michael H. Pryor

Michael H. Pryor
Counsel to AT&T Wireless Services, Inc.

Enclosure

cc: Christopher Libertelli (without attachment)
Daniel Gonzalez (without attachment)
Matthew Brill (without attachment)
William Maher (without attachment)
Richard Lerner (without attachment)
Thomas Navin (without attachment)
Jeremy Miller (without attachment)
Julie Veach (without attachment)

TRIENNIAL REVIEW

December 17, 2002

INTRODUCTION

- "[W]e will more fully consider the real competitive choices that have been introduced through alternate platforms, particularly wireless and cable telephony that may be the best hope for residential consumers." Prepared Remarks of Chairman Powell, "Digital Broadband Migration Part" II, October 23, 2001.

- As the Commission considers the competitive choice introduced by wireless telephony, it must bear in mind the great extent to which wireless networks rely on wireline transport, almost all of which is provided by the ILECs.

- In order to fulfill the hope of inter-modal competition from wireless carriers for residential consumers, CMRS carriers must have access to these essential transport links as unbundled network elements.

WIRELESS SUBSTITUTION IS NASCENT

- **Although BOCs contend that CMRS carriers are already fully competitive with wireline local service, wireless substitution is still nascent:**
  - Only three to five percent of wireless customers have abandoned their landline phone. *Seventh CMRS Competition Report*, 17 FCC Rcd 12985, 13017 (2002).
  - Only eleven percent of residential wireless customers replace a "significant percentage" of wireline phone usage with wireless usage. *Id.*
  - Only 12% of total voice minutes are carried by the wireless industry.
- **Mobile wireless broadband is in its infancy.**

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CMRS Carriers Are Considered Potential Inter-Modal Competitors, But They Are Heavily Reliant on ILEC Wireline Transport Services

AT&T Wireless

- CMRS networks consist of thousands of cell sites that are used to originate and terminate customers' calls.
- Each cell site must be connected to centrally located mobile switching centers (MSCs).
- Cell site-to-MSC connections are overwhelmingly made via ILEC transport facilities purchased from special access tariffs.
  - Over 90% of AT&T Wireless transport costs go to paying ILECs for special access services. AWS spent approximately $300 million for dedicated transport in 2001. (AWS 2001 Annual Report.)
  - Voicestream reports that ninety six percent (96%) of the circuits it uses to connect its mobile switching centers and cell site base stations are provisioned by the ILECs.
  - Sprint reported that the purchase of dedicated transport facilities is the single largest network operating cost of it's mobile wireless division.

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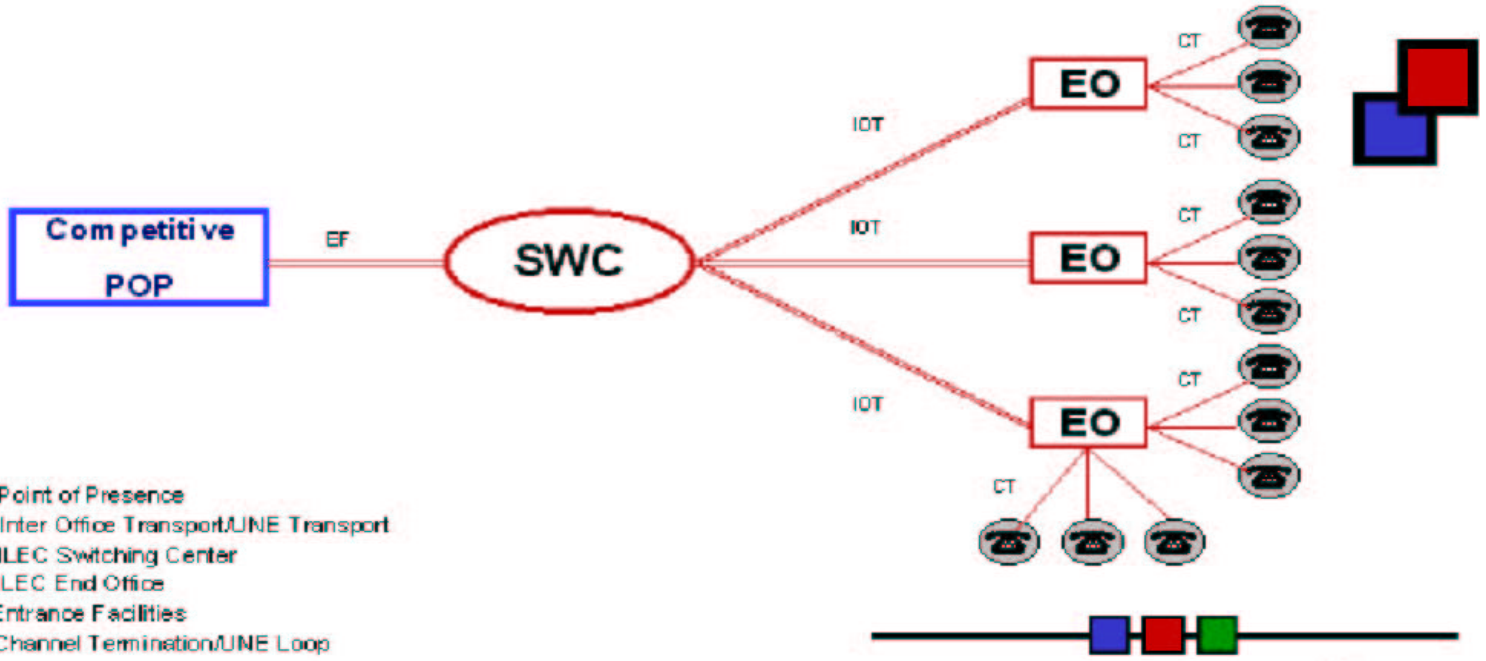
CMRS Carriers Use ILEC Transport In The Same Way As CLECs

- CLECs use special access services to connect their switches to customer premises, as the diagram submitted by WorldCom in the Special Access Performance proceeding demonstrates. (Letter to William Caton, FCC, from Lisa Smith, WorldCom (Apr. 3, 2002) (on file with the FCC in CC Docket No. 01-338), attaching Presentation to the FCC, *ILEC Special Access Performance*, Apr. 2, 2002.)

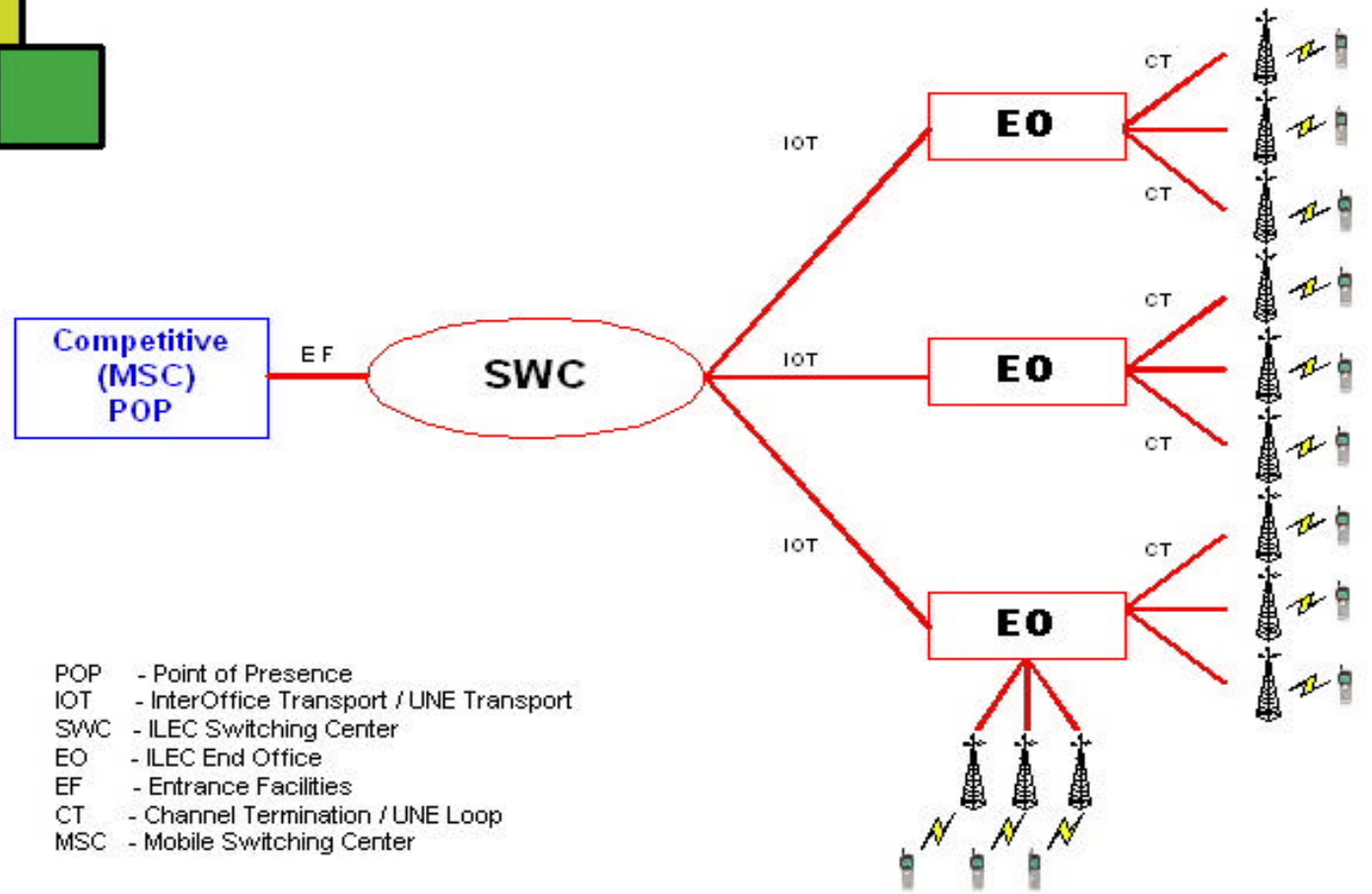
Access Network Topology

- Special access is:
  - Dedicated (unswitched) links between a competitor's pop and its end-user customers
  - Provided via the same facilities used to supply UNE loops and transport
  - Widely used by competitive carriers for interoffice facilities and local loops



CMRS Transport Network Topology Is Identical To CLECs

Access Network Topology for CMRS Carriers Is Virtually Identical



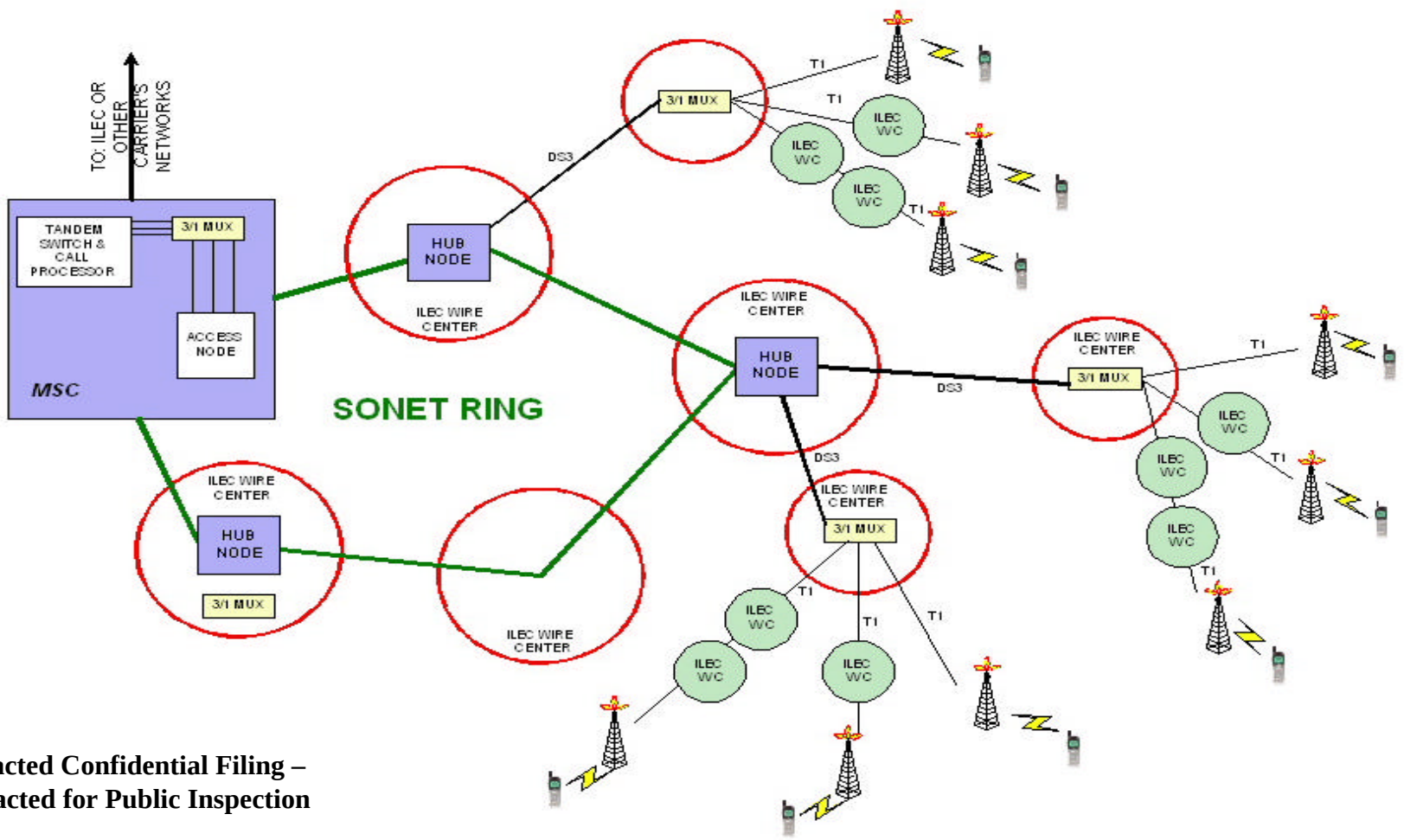
POP - Point of Presence
IOT - InterOffice Transport / UNE Transport
SWC - ILEC Switching Center
EO - ILEC End Office
EF - Entrance Facilities
CT - Channel Termination / UNE Loop
MSC - Mobile Switching Center

CMRS CARRIERS HAVE MUCH GREATER NEED FOR UBIQUITOUS TRANSPORT THAN CLECS

AT&T Wireless

- CMRS carriers must obtain transport from virtually every wire center in the CMRS carrier's serving area.

CMRS Use of ILEC Transport in Metropolitan Areas



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THERE IS NOTHING NEW ABOUT CMRS CARRIER ACCESS TO UNES

- **The Commission held in the 1996 *Local Competition Order* that CMRS carriers are entitled to UNEs:**
  - "[CMRS]carriers meet the definition of a "telecommunications carrier" because they are providers of telecommunications services as defined in the 1996 Act and are thus entitled to the benefits of section 251(c), which include the right to request interconnection and *obtain access to unbundled elements at any technically feasible point in an incumbent LEC's network. Local Competition Order*, 11 FCC Rcd 15989, ¶ 993 (1996).

- Following the *UNE Remand Order*, the Commission ordered incumbent LECs to provide 911 databases to CMRS carriers as UNEs. *Enhanced 911 Calling Systems*, 14 FCC Rcd 20850, ¶¶ 100-101 (1999).

- **ILEC interconnection agreements contemplate CMRS carrier access to UNEs:**
  - "BellSouth shall, upon request of Carrier, and to the extent technically feasible, provide to Carrier access to its Network Elements for the provision of Carrier telecommunications service." BellSouth Template CMRS Interconnection Agreement, Section VII. A (http://www.interconnection.bellsouth.com/carriertypes/wireless/docs/cellular.pdf)

  - "SWBT will offer Network Elements to AWS on an unbundled basis on rates, terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the Federal Act and applicable State regulations or orders for the provision by AWS of a wireless telecommunications service."
    AWS/SBWT Texas Interconnection Agreement, section 2.6.

CMRS Reliance On ILEC Transport Will Continue To Increase As CMRS Networks Evolve

- AWS requires multiple ILEC T-1 lines to each of its cell sites.
- Each cell site needs an average of 2-3 T-1 lines.
- The number of AWS cell sites continues to grow as AWS expands its footprint, improves service quality, and upgrades to high speed services.
  - In 2001, AWS had approximately 15,000 cell sites.
  - This number will grow to more than 21,000 by the end of 2002.
- With advent of broadband, cell sites will need even more transport capacity.
  - Cell sites upgraded to 2.5G networks required at least one additional T-1 line.
  - 3G will double or triple number of T-1s per cell site, from 2-3 per site to 5-9 T-l's per site.

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CMRS Carriers Have No Better Alternatives To ILEC Transport Than Do The CLECs

- The Triennial Review record demonstrates the lack of alternatives to ILEC transport. A finding of CLEC impairment based on lack of third party alternatives, whether on a general basis or a more discrete geographic basis, would be equally applicable to CMRS carriers.

- BOCS actually thwart the ability of CLECs to provide competitive transport alternatives by refusing to provide UNEs to CLECs if they intend to use to them to provide transport services to CMRS carriers.

- Claims like those of BellSouth that there are "numerous alternatives available to wireless carriers" are simply not true. In fact, facilities-based carriers in the BellSouth region have explained they need access to BellSouth UNEs in order to provide service to CMRS carriers.

  - *See e.g.*, Duke Net *ex parte*, October 18, 2002 (explaining need for dark fiber and dedicated transport to reach MSCs and cell sites that cannot be reached by Duke Net's network); Progress Telecom Comments.

  - If necessary, the Commission should change the definition of dedicated transport to include transport to cell sites.

SELF-PROVISIONING ALTERNATIVES ARE LIMITED

- AWS has taken a number of steps to try to reduce its dependence on ILEC transport.
- Because of the high price of ILEC SONET transport, AWS is finding it cost-effective in the long run to deploy alternative SONET ring transport in major metropolitan markets.
  - Lease dark fiber on IRU basis
  - Purchase optronics to light fiber
  - Outsource network management
- Virtually no alternative carriers can provide "tails" to the cell sites.
- ILEC termination penalties are a constraining factor.
- Deployment of additional electronics to cell sites to compress signals and enhance use of existing T-1 facilities.
  - AWS hopes to begin deploying equipment next year to approximately [REDACTED] cell sites.
  - Cost averages [REDACTED] per cell site.
  - Applies to TDMA and analog only.
- Microwave has limited potential.
  - Approximately 4% of AWS transport links are microwave.
  - Constraints on microwave use include:
    - Limited space on towers at cell sites for additional microwave antennas.
    - Need to obtain zoning approval for additional microwave towers.
    - Reliability and performance concerns.

THE EXTENT OF COMPETITION AMONG CMRS CARRIERS IS NOT DETERMINATIVE OF IMPAIRMENT.

- The issue for effective inter-modal competition is not the degree of competition among CMRS carriers, but competition between CMRS carriers and ILECs, which is still nascent.
- There is no effective competition at the wholesale level for transport to cell sites.
- CMRS carriers are not only captive customers of ILEC transport services but thet must pay non-cost based rates. AT&T's recent petition raised serious concerns that ILECs extract monopoly rents from the provision of special access services.
  - The Commission has recognized that non-cost based pricing by ILECs for essential inputs causes competitive injury for unaffiliated CMRS carriers. See *CMRS Safeguards Order*, 12 FCC Rcd 15668, 15690 (1997) ("[N]on-cost based pricing of interconnection enables the LEC-owned CMRS provider to increase its market share at the expense of its non-LEC competitors").
  - If CMRS carriers are given no alternative to ILEC special access services, the Commission should ensure that the rates for such services do not include monopoly rents.

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CONCLUSION

- CMRS carriers are impaired without access to UNE dedicated transport.
- CLECs seeking to provide competitive transport alternatives to the ILEC must have access to UNEs.
- The Commission must address the serious issue of special access monopoly pricing raised in AT&T Corp.'s Petition.

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